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# Television across Europe:

## Follow-up Reports 2008

MACEDONIA

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This country report was prepared as part of a series of monitoring reports titled “Television across Europe: Follow-up Reports 2008”. The series presents an update of the situation in nine of the original twenty countries covered in the 2005 reports series “Television across Europe: regulation, policy and independence”. The countries included in the 2008 series are: Albania, Bulgaria, Czech Republic, Italy, Lithuania, Macedonia, Poland, Romania and Slovakia.

Both series of reports have been prepared by the EU Monitoring and Advocacy Program (EUMAP) of the Open Society Institute and by the Network Media Program (NMP) of the Open Society Foundation, in cooperation with local experts. EUMAP and NMP would like to acknowledge the primary role of the following individuals in researching and drafting this country report.

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## Preface

*Television across Europe: Follow-up Reports 2008* is a monitoring project of EUMAP (EU Monitoring and Advocacy Program) at the Open Society Institute and of the Network Media Program at the Open Society Foundation. The project updates and builds on the outcome of the original *Television across Europe: regulation, policy and independence* monitoring reports released in October 2005, which covered 20 countries.

The 2005 reports concluded that the pivotal role of television in supporting democracy in Europe was under threat. It showed that public service broadcasters were being forced to compromise quality to compete with commercial channels, and that many of them depended on Governments or political parties. Moreover, ever-larger concentrations were developing in the commercial sector, often with clear political affiliations. These developments jeopardised broadcasting pluralism and diversity, with the new democracies of Central and Eastern Europe most acutely at risk.

The original *Television across Europe* project and its linked advocacy activities ended in June 2006. Since then, the Network Media Program has funded a number of follow-up projects, carried out by partner organisations in selected countries, aimed at promoting and building on the reports' findings and conclusions.

There have been significant developments in many of the countries covered in the 2005 reports, with respect to many of the areas monitored. Launched in London in March 2008, *Television across Europe: Follow-up Reports 2008* monitors these developments in nine of the twenty countries that were originally monitored: Albania; Bulgaria; the Czech Republic; Italy; Lithuania; Poland; the Republic of Macedonia; Romania and Slovakia. These countries were selected because of the continuing significant changes in their broadcasting landscape.

*Television across Europe: Follow-up Reports 2008* maps the main changes in broadcasting legislation, policy and market over the past three years and assesses the progress – or lack of – that these countries have made in improving the independence and pluralism of their broadcasting.

As with the original 2005 reports, these updates are addressed to policy makers, civil society activists and academics alike, as a contribution to bringing about change where it is needed.

The nine country reports were drafted by local experts with the support of partner NGOs. All country reports are based on the same methodology, thus allowing for a comparative analysis. OSI and OSF assume final responsibility for their content.

## About EUMAP

EUMAP, the EU Monitoring and Advocacy Program of the Open Society Institute, monitors the development of selected human rights and rule of law issues in both the European Union and in its candidate and potential candidate countries.

EUMAP works with national experts and nongovernmental organizations (NGOs) to compile reports that are distributed widely throughout Europe and internationally. The reports are designed to encourage broader participation in the process of articulating the EU's common democratic values as well as in ongoing monitoring of compliance with human rights standards throughout the Union.

In addition to these monitoring reports on Television across Europe, EUMAP is currently focusing on access to Education for Roma and on the situation of Muslims in selected EU Cities.

Previous EUMAP reports include the 2005 Television across Europe series as well as reports on minority protection, the rights of people with intellectual disabilities, judicial independence, judicial capacity, corruption and anticorruption policy and equal opportunities for women and men.

All EUMAP reports as well as further information on the program are available at [www.eumap.org](http://www.eumap.org).

## About NMP

The Network Media Program seeks to promote independent, professional, and viable media and quality journalism, primarily in countries undergoing a process of democratization and building functioning media markets.

The Media Program supports initiatives aimed at helping media-related legislation conform to international democratic standards, increasing professionalism of journalists and media managers, strengthening associations of media professionals, and establishing mechanisms of media self-regulation. The Media Program also supports media outlets that stand for the values of open society, as well as efforts aimed at monitoring and countering infringements on press freedom, and promoting changes in media policy that ensure pluralism in media ownership and diversity of opinion in media.

Although traditionally the Media Program has focused on Central, Eastern, and South Eastern Europe, CIS, and Mongolia, during the past several years it has expanded to Western and Southern Africa, Southeast Asia, and Latin America.

Television across Europe:  
Follow-up Reports 2008

Macedonia

By Vesna Šopar

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## List of Abbreviations

AEK	Agency for Electronic Communications, <i>Agencija za elektronski komunikacii</i>
APEMM	Association of Private Electronic Media in Macedonia
MDC	Media Development Center
MRD	Macedonian Broadcasting, <i>Makedonska Radiodifuzija</i>
MR	Macedonia Radio, <i>Makedonsko radio</i>
MRT	Macedonian Radio and Television, <i>Makedonska radio-televizija</i>
MTV	Macedonian Television, <i>Makedonska televizija</i>
OSCE	Organisation for Security and Co-operation in Europe
PEAS	Public Enterprise for Airport Services
SMMRI	Strategic Marketing and Media Research

- VMRO-DPMNE      Internal Macedonian Revolutionary Organisation –  
Democratic Party for Macedonian National Unity, *Vnatrešna  
makedonska revolucionerna organizacija – Demokratska partija za  
makedonsko nacionalno edinstvo*)
- ZNM                Association of Journalists of Macedonia, *Zdruzenie na Novinarite na  
Makedonija*

## A. Executive Summary

The past three years – since the original *Television Across Europe* report on Macedonia was written – have seen paradoxical developments in Macedonian broadcasting. On one hand, Parliament finally adopted progressive legislation that brought the Republic of Macedonia into line with European standards on regulatory independence and public service broadcasting. On the other hand, this progress has had little effect on the massive structural problems afflicting the broadcast sector.

Legally, television in Macedonia consists of public, commercial and non-profit terrestrial stations as well as cable and satellite networks. The public broadcaster is beset by problems so profound that it is hard to see how they can be resolved. Despite a drawn-out process of restructuring, public service broadcasting is still paralysed by crisis in the areas of financing, personnel and programming. Commercial television dominates the ratings with a programme output that neither gets close to meeting public service standards, nor stimulates high-quality local production.

Licences for cable and satellite broadcasters have not been awarded. The only cable operators in Macedonia package foreign channels with a large offer of programmes and services. The non-profit broadcasters are still grassroots enterprises on a very small scale. The Macedonian market is still overcrowded, with 114 radio and television stations, and the quality of programming is far from satisfactory. Programmes are monotonous and poor, with entertainment dominating the schedules and few locally produced programmes of quality.

The legal framework has changed significantly since 2005, due to the adoption of new broadcast legislation in that year, subsequently amended in 2007. This legislation upholds European standards for media and the audiovisual *acquis communautaire*, especially the provisions on European works, advertising, sponsorship and teleshopping. The procedure for obtaining broadcast licences has been liberalised for both local and foreign broadcasters. Media concentration is precisely regulated, but the relevant provisions have not been implemented. The autonomy of the public service broadcaster and the broadcast regulator has been bolstered through legislation.

In general, however, despite turbulence in some areas, the implementation of new legislation has gone according to plan. The members of the new Broadcasting Council (*Sovet za radiodifuzija*) were appointed, albeit under pressure from civil society and the European Commission which insisted on excluding political parties. The Council was given many extra powers by the new legislation and has attempted to implement the law more efficiently thanks also to support from local and foreign experts. The Broadcasting Council adopted a Strategy for the Development of Broadcasting, including an Action Plan. Although the Government refused to endorse this strategy, the Broadcasting Council started to implement the Action Plan.

What is still lacking is efficient implementation of concrete measures against those broadcast entities breaking the law, especially as regards ownership, programme standards and advertising.

Macedonian Radio and Television (MRT, *Makedonska radio-televizija*) has seen numerous management changes. In 2006 and 2007, heads and editors were replaced more than once, which had negative effects on the output and the ratings. MRT's financial plight is deepening. Licence fee funding, on which MRT partly depends, has collapsed; payment dropped dramatically in 2007 to a mere 0.5 per cent of households. Funding from Government handouts and the State budget is a temporary measure that damages the station's independence. It is also dubious as the State is only allowed to fund specific public service output such as programmes for the diaspora. The main problem today is the reluctance of MRT's management to try and collect the licence fee more efficiently because it is easier to wait for Government handouts. This tacit acceptance of a disastrous situation is systematically perpetuated by politicians who wish to keep MRT financially dependent on the State.

Commercial radio and TV stations completed the process of replacing their old concession agreements with broadcast licences issued by the Broadcasting Council. Along with moves to increase the independence of the Council, this step is expected to reduce Government interference in broadcast regulation. Their programme offer has not improved, however, and there have been no changes in their ownership structure although the regulations covering media concentration are sometimes blatantly breached.

The cable market is undergoing dynamic, yet turbulent developments. There are more than 118 local operators, but only 53 have registered their programme packages with the Broadcasting Council. The others continue to work without programme copyrights. In the meantime, the cable sector is consolidating; one foreign investor bought 13 cable operators in central Macedonia and plans more acquisitions. Eight cable operators from central and south Macedonia are forming a telecommunications consortium to try and protect themselves against a foreign buyout.

## B. Recommendations

### 1. ORIGINAL RECOMMENDATIONS FROM THE 2005 REPORT<sup>1</sup>

<i>Media legislation</i>	
<p>1. Parliament and the Government should pass the new Law on Broadcasting Activity as soon as possible. This obligation is noted in the Government's "Answers to the Additional Questions for the Economic Criteria" and the chapters of the <i>acquis</i> for European membership.<sup>2</sup></p> <p>2. Civil society, the media industry and academia should insist on the fulfilment of this obligation and intensively monitor and assist the parliamentary procedure.</p> <p>3. Parliament and the Government should ensure the full implementation of the new Law on Broadcasting Activity after its passage, in particular with respect to the establishment of the institutions in Macedonian Radio and Television (MRT) foreseen by the law, and to securing legal and political guarantees for its independence.</p>	<p>Recommendations 1 and 2 have been adopted. The Broadcasting Law (2005) has had a positive impact. Recommendation 3 has not been adopted and remains pertinent. However, instead of Parliament and the Government, the Broadcasting Council should be more pro-active in fully implementing the provisions of the Broadcasting Law.</p>
<i>Broadcasting policy</i>	
<p>4. Parliament, as the founder of the Macedonian Radio and Television (MRT), should organise a parliamentary debate about the future of the public service broadcaster. The main purpose of this debate should be to establish a strategy for financial consolidation, modernisation of its technical equipment and the strengthening of its human resources.</p>	<p>This recommendation has not been adopted. According to the 2005 Broadcasting Law, Parliament is no longer the founder of MRT. But debate on the future of MRT is still needed. The Broadcasting Council should initiate a broad debate with ministries, MRT and media experts on the future of the public service broadcaster. Following the debate, the Broadcasting Council should push the Council and the Management Board of MRT to implement the recommendations arising from the debate.</p>

<sup>1</sup> "Republic of Macedonia" in Open Society Institute, *Television across Europe: regulation, policy and independence*, Budapest, 2005 (hereafter OSI/Republic of Macedonia), pp. 1,224–1,226.

<sup>2</sup> Government of the Republic of Macedonia, "Answers to the Additional Questions for the Economic Criteria and the Chapters of the *Acquis* for European membership", available online (in English) at <http://www.sei.gov.mk/prasalnik> (accessed 14 August 2005).

## 1.1 Policy

<p>5. The Broadcasting Council, together with the Committee to Develop the Broadcasting Network, should organise, as soon as possible, a broad public debate about the National Strategy for the Broadcasting Sector.</p> <p>6. The Government should ensure that a National Strategy for the Broadcasting Sector is drafted, incorporating both national experiences and European standards and trends.</p> <p>7. Parliament should, as a priority, ensure the passage of the Strategy and its full implementation in practice.</p>	<p>Recommendations 5, 6 and 7 were partly adopted. The Broadcasting Council adopted the Strategy for the Development of Broadcasting, which was then accepted by the Parliamentary Commission for Transport and Communications. However, the Government rejected this Strategy in January 2008. The Government should adopt this Strategy as a State policy.</p>
<p>8. The Government should adopt a plan to introduce new legislation in the area of the information society, to introduce regulation for the Internet and other new technologies.</p> <p>9. The Government should adopt a National Strategy for Electronic Communications and Information Technology. Particular attention should be given to fostering the introduction of new information technologies and services. Together with experts from universities and research institutes, public authorities should also involve private enterprises in this task.</p>	<p>These recommendations have been partly adopted. The Government drafted the National Strategy for Electronic Communications and Information Technology, but Parliament has yet to adopt it. Despite this delay, the measures that it foresees are being implemented by Government bodies as part of their action plans.</p>
<p><i>International support</i></p>	
<p>10. International organisations supporting media development, such as the OSCE Media Development Unit (MDU), should continue their financial, technical and professional support, particularly to those media who cover the interests of marginal target groups in society.</p> <p>11. The Stability Pact for South Eastern Europe, through its Media Task Force and together with the Media Working Group in the Republic of Macedonia, should initiate the monitoring of the implementation of the new Law on Broadcasting Activity, after this new law has been passed.</p>	<p>Due to external factors that affected international organisations, recommendation 10 could not be adopted. International organisations should resume their financial, technical and professional support. Recommendation 11 was followed by the Media Development Centre (MDC), a non-governmental organisation which played a leading role in the Media Working Group until the Stability Pact's Media Task Force ceased operations in 2006. The MDC has continued to monitor the implementation of the Broadcasting Law.</p>

## 1.2 Regulatory bodies

<i>Public service broadcasting</i>	
12. The Broadcasting Council, together with Macedonian Radio and Television (MRT) and civil society organisations, including journalists associations, trade unions and the academia, should organise public debate about the future of public service broadcasting in Macedonia, to support the process of further transformation in this sphere.	This recommendation was not followed. It remains pertinent. A broad debate on the future of MRT is still needed. (See recommendation 4 in 1.1 Policy.)
<i>Minority representation</i>	
13. The Broadcasting Council, the broadcasters – Macedonian Radio and Television and commercial broadcasters – as well as media experts and other interested parties, should launch a debate about ethnicity and the public sphere, to determine how the media contribute to creating understanding or division among the various communities in the country. The debate should focus on how the media could enhance their professional performance in creating understanding among the communities.	This recommendation was not followed. There is still need for such a debate, complemented with further measures. To encourage the media to contribute to fostering understanding among the various communities, the Broadcasting Council should help to build the non-profit media sector by supporting outlets that focus on interethnic communication. MRT, which broadcasts in many minority languages, but does not manage to promote social cohesion, should clearly define its goals of promoting multiculturalism through its programming.

### 1.3 Industrial relations and ethical issues

<p>14. The Association of Journalists of Macedonia (ZNM) and other professional associations of journalists should establish a system of regular debates about journalistic professional standards.</p> <p>15. The Association of Journalists and other professional associations should start negotiations with media owners about media standards, codes of ethics and other self-regulatory instruments designed to protect the editorial integrity of journalists.</p> <p>16. The Association of Journalists and other professional associations should immediately establish co-operation with Trade Unions and formulate a platform for the protection of employees' rights in the media industry.</p>	<p>These recommendations have been partly followed. The ZNM became more active in 2007 and started to carry out more activities beneficial for journalists. It should continue its initiatives in the areas highlighted by these recommendations.</p>
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## 2. NEW RECOMMENDATIONS BASED ON THE 2008 REPORT

### 2.1 Media policy and legislation

1. The EU Directorate should assess the implementation of the 2005 Law on Broadcasting Activity and the Law on Electronic Communications. The civil sector, the media and the communications academics should insist on the efficient implementation of these obligations.

### 2.2 The Broadcasting Council

2. The Broadcasting Council, in co-operation with independent monitoring agencies, should develop a set of benchmark standards for the broadcast sector, with measurable indicators. This would help the Ministry of Transport and Communications to identify the gaps and failures in implementing media legislation, and to gradually update the legal framework for broadcasting. The benchmarking system should also be used by the regulators, the Broadcasting Council and the Agency for Electronic Communications, in their licensing work.
3. The Broadcasting Council should organise more debates with the main stakeholders to ensure transparency of policy-making.
4. Before launching a tender for digital licences, the Broadcasting Council should co-operate with the Agency for Electronic Communications to organise a broad debate with all interested stakeholders on the regulatory model that would best fit the digital environment, especially the model of regulation for digital terrestrial broadcasting.

### 2.3 Public service broadcasting

5. MRT should develop mechanisms for efficient collection of the licence fee. The Government should support MRT in this endeavour through financial institutions such as the tax collecting authorities.
6. The MRT Council should order an independent audit of the financial flow in MRT and make the results generally available.

### 2.3 Commercial broadcasting

7. The Association of Private Electronic Media in Macedonia (APEMM) should make clear its strategy for developing the commercial broadcast sector.
8. Parliament should amend the Broadcasting Law to introduce legal provisions obliging the anti-monopoly regulator, the Commission for Protection of Competition (*Komisija za zaštita na konkurencijata*), to enforce the regulation on concentration of media ownership. The anti-monopoly regulator should review cases of concentration in the broadcast sector and remedy the faults.
9. Parliament should amend the Broadcasting Law to ban politicians from owning broadcasters.
10. The Broadcasting Council should establish an independent body within the regulator to carry out a new people-metering measurement of audiences, thus providing a clearer picture of the broadcasting market. The body should be financed from a portion of the licence fee collected from viewers.

## C. Main Findings of the Follow-up Monitoring

### 1. GENERAL BROADCASTING ENVIRONMENT

#### 1.1 Key developments in legislation and policy

Over the past few years, broadcasting in Macedonia has undergone major changes in several key areas. In February 2005, a new Law on Electronic Communications was adopted.<sup>3</sup> In November the same year, Parliament adopted a new Broadcasting Law.<sup>4</sup> Communications academics, media experts and civil society representatives were involved in drafting the law, which was hailed by local and foreign media experts as bringing positive changes to the regulation of broadcast ownership, the editorial policy of public service broadcasting, and the status of the regulatory bodies.

The members of the Broadcasting Council, the Agency for Electronic Communications (AEK, *Agencija za elektronski komunikacii*) and the governing bodies of the public broadcaster were all appointed during 2006.<sup>5</sup> In February 2007, Parliament amended the Broadcasting Law.<sup>6</sup> The main changes were related to the management of MRT, namely the appointment of a two-member executive body instead of a single Chair.

A major policy development was the adoption of the new Strategy for the Development of Broadcasting after a lengthy and convoluted process. The Broadcasting Council had been working on this strategy since June 2006, consulting several expert teams including TAIEX, a European Commission (EC) programme, which offers expertise in the implementation of EU legislation. The strategy covers the broadcasting market, pluralism and diversity of TV programming, development of new technologies and digitalisation, and content piracy, one of the worst afflictions holding back the audiovisual market in Macedonia. A draft version of the strategy was published on the Council's website and opened up to public debate in September 2007. The regulator organised several debates on the Strategy with experts in the media, law and economy, as well as broadcasters, representatives of the civil society, MRT and the AEK.

The Strategy was criticised by various civil society groups and media experts for describing the situation of Macedonian broadcasting rather than defining a strategy to

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<sup>3</sup> Law on Electronic Communications, *Official Gazette of the Republic of Macedonia*, no. 13/05.

<sup>4</sup> Law on Broadcasting Activity, *Official Gazette of the Republic of Macedonia*, no. 100/05. (Hereafter Broadcasting Law).

<sup>5</sup> The members of the Broadcasting Council were appointed on 18 April 2006 (seven members) and on 23 May 2006 (two members). The members of the Macedonian Radio and Television (MRT) Council were appointed on 23 May 2006.

<sup>6</sup> Law amending and appending the Law on Broadcasting Activity, *Official Gazette of the Republic of Macedonia*, no. 10/07.

build a solid broadcast environment. In the end, the regulator incorporated some concrete recommendations from media experts on copyrights, digitalisation and the Council's own institutional capacity. The Strategy was adopted by the regulator, but in January 2008 it was rejected by the Government, on the grounds that it clashed with the Government's overall policy on communications. In March 2008, disregarding this snub, the Broadcasting Council adopted an Action Plan with concrete steps for implementing the Strategy.

Parliament and the Broadcasting Council did not organise debates on the future of MRT, namely financial consolidation, modernisation and strengthening of MRT's human resources. Instead, several debates were organised by the Media Development Center (MDC, *Centar za razvoj na medijumite*), a non-governmental organisation. The most recent of these debates, addressing MRT's operation under the new broadcasting law, took place in June 2007.

Back in September 2005, Parliament adopted a National Strategy for the Development of the Information Society for 2005–2007. The main goal of the Strategy was to build a sustainable and inclusive information society through the co-operation of the public and private sectors, academics, and other stakeholders. The Strategy had seven pillars: infrastructure; e-business; e-government; e-education; e-health; e-citizens and regulation. It was supported by all the parties in Parliament, marking the first time that such a document gained comprehensive political backing. Along with the Strategy, the Government adopted an Action Plan which allocated responsibility for implementing the provisions of the Strategy to one State institution or another.

But the Government that took power after the 2006 parliamentary elections made no commitment to implementing this strategy.<sup>7</sup> According to the AEK's preliminary estimations, only 20 to 30 per cent of the Action Plan has been implemented, mainly because the Government did not allocate sufficient funding.<sup>8</sup> Even this limited achievement was due to the work of international organisations and donors.

The Strategy also proposed to set up an Agency for the Information Society, to be supervised by a council formed of representatives from all the ministries and civil society. The new Government scrapped this plan, arguing that it wanted to establish an IT Ministry instead. The opposition opposed this plan and continued to support the idea of an agency. When the Government failed to push legal provisions to establish the ministry through Parliament, it chose to create a Ministry of IT without portfolio.

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<sup>7</sup> The centre-right opposition Internal Macedonian Revolutionary Organisation – Democratic Party for Macedonian National Unity (VMRO-DPMNE, *Vnatrešna makedonska revolucionerna organizacija – Demokratska partija za makedonsko nacionalno edinstvo*) won the parliamentary elections in July 2006.

<sup>8</sup> An assessment of the implementation of this plan is expected to be released by AEK in the near future. (Interview with Bardhyl Jashari, member of AEK and Executive Director of Metamorphosis, a Skopje-based foundation specialising in ICT, Skopje, 9 April 2008.)

In April 2007, the Ministry of Transport and Communications prepared a draft version of the National Strategy for Electronic Communications and Information Technology. The National Council for the Information Society, an advisory body intended to assess the implementation of the Strategy, is to be set up by the end of May 2008. It is not clear when Parliament will vote on the Strategy.

The international support of the Media Development Unit in the mission of the OSCE focused mostly on the transformation of the state broadcaster into a public service broadcaster, and on the implementation of the new Broadcasting Law. Monitoring the implementation of the law is being performed by a special working group under the MDC.

Ethical issues affecting the media continue to be marginalised. There has been scant interest in debates concerning professional standards for journalists. The principal exception is the Macedonian Institute for Media (*Makedonski institut za medijum*), a non-governmental organisation specialising in the training of journalists and other media professionals, which in December 2006 organised a conference on professional journalism and development of media in Macedonia with a special focus on self-regulation. The conference conclusions underscored the need to improve compliance with the professional code of conduct by the journalists and to introduce mechanisms ensuring professional journalism.

There is still no platform for protecting the rights of employees in the media industry. The ZNM, the largest journalists' organisation, started to be more pro-active after a new leadership, including the renowned journalist and moderator Robert Popovski as ZNM Chair, took the helm in 2007. The other reason why ZNM has become more active is the resumption of foreign donations during the past two years. The ZNM now monitors issues affecting the work of journalists more closely than before; for example, it has campaigned against corruption among journalists and reacted more vigorously to incidents of hate speech.

Three new laws are now being prepared: a bill on broadcasting activity; a bill on electronic communications; and a bill on the transmission company Macedonian Broadcasting (MRD, *Makedonska Radiodifuzija*). The last of these envisages the transformation of MRD from a State company into a shareholding company, with a view to full privatisation in 2015.

## 1.2 EU legal provisions

The ownership system has been relaxed, albeit very precise ceilings for media concentration are still missing. Moreover, all restrictions on foreign investments in the field of broadcasting have been dropped. The 2005 Broadcasting Law has also introduced provisions on transparency of media ownership. These regulations followed European recommendations on rules on advertising, teleshopping and sponsorship.

Following the replacement of the system of concessions with licences, private radio and television stations have started to redefine their formats.<sup>9</sup> All broadcasters, both public and commercial, are adapting their programme structure to comply with the regulations including provisions on European audiovisual works, works produced originally in the Macedonian language or the languages of other communities, and on vocal music of Macedonian or other languages.

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<sup>9</sup> Broadcasting Council, “Handbook for the formats of the radio and television programme services”, 30 October 2006.

**Table 1. Overview of legal developments in Macedonia in 2005–2007**

Law	MRT	Broadcasting Council	Private broadcasters
2005 Broadcasting Act	<p><i>Governing structures</i></p> <ul style="list-style-type: none"> <li>– Changed the system of appointing the MRT Council, which is formed from representatives of civil society, with its Executive Director selected through open competition. (The Council and MRT’s Executive Director had been nominated and appointed by Parliament.)</li> <li>– Changed MRT management structure, which is composed of the MRT Council, the Management Board and the General Director. (It previously consisted of the Management Board, the Financial Board and the Executive Director.)</li> <li>– Reduced the Management Board from 11 to 7 members, to be elected by the MRT Council through a public contest. (Before, the Management Board was nominated and appointed by Parliament and MRT’s employees.)</li> </ul> <p><i>Programming</i></p> <ul style="list-style-type: none"> <li>– Obligated MTV to air one programme service in Macedonian language (MTV1) and one programme service in the languages of the country’s other non-majority communities (MTV2).</li> <li>– Imposed quotas for European programming.</li> <li>– Banned advertising on MTV between 5 p.m. and 9 p.m.</li> <li>– Banned political advertising.</li> </ul>	<p><i>Composition</i></p> <ul style="list-style-type: none"> <li>– Reduced the mandates of the Broadcasting Council members from two to one.</li> <li>– Increased the ineligibility criteria for Council members.</li> </ul> <p><i>Powers</i></p> <ul style="list-style-type: none"> <li>– Increased the powers of the Broadcasting Council from mere “advisory” functions to broader competences covering licensing, monitoring, adoption of secondary legislation, sanctions, and participation in drafting legislation.</li> </ul> <p><i>Transparency</i></p> <ul style="list-style-type: none"> <li>– Obligated the Broadcasting Council to organise public meetings with all the stakeholders at least once in every three months to give them the opportunity to present their opinions on broadcasting-related issues.</li> <li>– Introduced provisions allowing applicants unsatisfied with the Council’s decisions to lodge lawsuits against the regulator.</li> </ul>	<p><i>Services</i></p> <ul style="list-style-type: none"> <li>– Increased the minimum amount of daily broadcasting.</li> </ul> <p><i>New sectors</i></p> <ul style="list-style-type: none"> <li>– Introduced the concept of the non-profit broadcast sector.</li> <li>– Introduced the concept of regional broadcasting (in addition to broadcasting at local and national levels).</li> <li>– Replaced the system of concessions with broadcast licences.</li> </ul> <p><i>Ownership</i></p> <ul style="list-style-type: none"> <li>– Dropped all the restrictions on foreign investments in broadcasting.</li> <li>– Changed provisions on concentration of ownership, allowing a nationwide broadcaster to own 50 per cent in a second broadcasting company (from 25 per cent previously).</li> <li>– Defined media ownership concentration in cases of radio or TV founders who also own: <ul style="list-style-type: none"> <li>• broadcast companies over the legally allowed number;</li> <li>• a publisher running a daily in the area covered by the broadcaster;</li> <li>• a news agency;</li> <li>• advertising companies, market and public opinion research companies, broadcast distributors, film producers, or telecoms.</li> </ul> </li> </ul>
2007 Amended Broadcasting Act	<p><i>Governing structures</i></p> <ul style="list-style-type: none"> <li>– Changed the Executive Director position from a single Chair into an executive team comprising two top executives and their deputies.</li> <li>– Allowed foreigners to be appointed executives of MRT.<sup>10</sup></li> </ul>		

<sup>10</sup> This provision was later struck down by the Constitutional Court. (See Section 3.1 PSB legislation and policy.)

### 1.3 Broadcasting market

The electronic media market consists of 114 broadcasters, 52 TV broadcasters and 62 radio stations. The public stations now comprise MRT's three TV channels and five radio channels.<sup>11</sup> The commercial sector comprises: eight nationwide stations (five TV stations and three radio stations); 27 operators with regional coverage (11 TV and 16 radio stations); and 79 local broadcasters (36 TV and 43 radio stations). The cable market totals 118 operators, which are obliged by law to notify the Agency for Electronic Communications about their operations. Then they have to register their programme packages with the Broadcasting Council. Only 53 of them have done so. The Broadcasting Council has ordered the remainder to cease operations.<sup>12</sup>

Competition at the national level is fierce. Commercial stations dominate, controlling more than 95 per cent of the advertising market (A1 TV, 51 per cent; Kanal 5, 21.6 per cent; and Sitel TV, 17.1 per cent). The three channels of Macedonian Television (MTV, *Makedonska televizija*) have only a combined 0.9 per cent share of the market. Commercial nationwide stations also enjoy leading positions in terms of audience. (*See table 2*)

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<sup>11</sup> In line with the Broadcasting Law, the Broadcasting Council decided that the 29 local public radio stations should be transformed into commercial broadcasters.

<sup>12</sup> "Izvestaj za rabotata na Sovetot za radiodifuzija na RM za periodot od 01.01.2007 do 31.12.2007 godina" (Report of the Broadcasting Council of the Republic of Macedonia from 1 January 2007 to 31 December 2007), Skopje, March 2008, available online (in Macedonian) at [http://www.srd.org.mk/WBStorage/Files/IZVESTAJ\\_POSLEDEN.doc](http://www.srd.org.mk/WBStorage/Files/IZVESTAJ_POSLEDEN.doc) (accessed 24 April 2008), hereafter Broadcasting Council, Annual Report 2007.

**Table 2. Audience share of the main TV channels in 2007**

Channel	Audience share (as percentage)
A1	23.7
Sitel	12.3
MTV 1	9.4
Kanal 5	7.6
Telma	3.9
MTV 2	2.3
Alsat M	1.5
Satellite channels	23.2
Other channels	15.3

Source: SMMRI<sup>13</sup>

Most local radio and TV stations are barely surviving. They used to attract foreign donations, but as of 2002, donors stopped pumping cash into these stations, arguing that the aid had not improved their situation. Those outlets operating in small, economically underdeveloped places face the harshest conditions.

## 2. REGULATION AND LICENSING OF THE TELEVISION SECTOR

### 2.1 Regulatory authorities and framework

Under the 2005 Broadcasting Act, the Broadcasting Council, which is established as an independent body, gained greater powers, especially in granting and revoking broadcast licences, implementing legislation, and adopting strategies and policies.

The main entities with responsibilities in the field of broadcasting are the Broadcasting Council, the AEK, the Ministry of Transport and Communications, and the Ministry of Culture. The Ministry of Transport and Communications is responsible for the construction, maintenance and use of the networks and means of broadcasting and transmission. The AEK issues permissions for using the frequencies and supervises how they are used. The supervision of the implementation of the provisions on respecting

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<sup>13</sup> Strategic Marketing and Media Research (SMMRI), "Programski potrebi na televiziskata publika vo Republika Makedonija" (Programme needs of television audiences in the Republic of Macedonia), June 2007.

copyrights and related rights was transferred in 2007 from the Ministry of Culture to the State Market Inspectorate under the Ministry of Economy. Provisions on the use of the Macedonian language in broadcasting are implemented by the Ministry of Culture.<sup>14</sup>

A key role belongs to the Broadcasting Council, defined as “an independent non-profit regulatory body, with public competences and authority in the field of broadcasting activity.” Its mission is to ensure “the freedom and pluralism of expression, existence of diverse, independent and autonomous media, economic and technological development of broadcasting activity, and protection of the interests of citizens in broadcasting.”<sup>15</sup>

Unlike before 2005, when they could be re-appointed, the Council’s nine members can now only serve one term. One of the Council’s vice-presidents and one of its members are Albanians, and one member is Bosnian. The tenure of the Council members is six years.<sup>16</sup> They are appointed by Parliament, but are nominated by:

- the Inter-University Conference, a body comprising all State universities in Macedonia (three candidates);
- the Committee of Elections and Appointments of the Assembly of the Republic of Macedonia (three candidates);
- the ZNM (two candidates);
- the Macedonian Academy of Arts and Sciences (one candidate).<sup>17</sup>

The mandates are staggered. In the first constituency of the Broadcasting Council, three members are chosen for two years, three for four years and the remainder for six years.

Parliament can no longer dismiss the Broadcasting Council members directly, but only at the request of the regulator itself, when a quorum of members agrees to ask Parliament to take this step. This dilution of Parliament’s power is considered to be a positive move towards increasing the regulator’s independence. More ineligibility criteria were added with the 2005 Broadcasting Law to the ineligibility conditions stipulated by the old legislation.<sup>18</sup> Persons working in broadcasting-related sectors such as advertising, electronic communications, production and the sale of broadcasting equipment have been barred from Council membership. At the same time, persons whose relatives own shares or sit on the management of broadcasters, and persons

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<sup>14</sup> Broadcasting Law, Arts. 164–165.

<sup>15</sup> Broadcasting Law, Art. 21.

<sup>16</sup> Broadcasting Law, Arts. 24, 28 and 30.

<sup>17</sup> Broadcasting Law, Arts. 26–27.

<sup>18</sup> OSI/Republic of Macedonia, p 1,179.

prohibited from performing any professional activity or duties for longer than six months cannot be appointed.<sup>19</sup>

The 2005 law gives the Council much broader powers. It can now:

- adopt and implement the Strategy for the Development of Broadcasting;
- decide on the allocation, revocation and renewal of broadcast licences;
- co-ordinate the allocation and use of radio frequencies for broadcast in co-operation with the AEK;
- supervise the work of broadcasters and issue certificates to register radio and television programme services retransmitted via a public communications network;
- adopt decisions, rules, conclusions and recommendations for implementing legislation;
- take legal measures against broadcasters and cable operators that fail to fulfil their duties as laid down by law;
- participate in drafting relevant legislation, regulations and other acts;
- approve the list of major events of public interest;
- adopt and implement measures in accordance with the legislation;
- inform competent bodies on matters of protection of copyrights and related rights about suspected violations;
- review requests and complaints regarding radio and television programmes submitted by citizens;
- inform the public about its measures and decisions;
- initiate misdemeanour and criminal proceedings.<sup>20</sup>

After the adoption of the 2005 Broadcasting Law, the Broadcasting Council introduced a Plan for Implementation of the Law. At the same time, it adopted a set of bylaws on issues such as:

- events of major importance for society,
- fair coverage of the general elections in 2006,
- the right to short reporting,

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<sup>19</sup> Broadcasting Law, Art. 25.

<sup>20</sup> Broadcasting Law, Art. 37.

- protection of cultural identity,
- list of formats for radio and TV stations,
- European audiovisual works,
- protection of youth by broadcasters,
- preservation and distribution of broadcast programmes,
- technical standards and parameters for work in broadcast studios,
- classification of radio and TV programmes.<sup>21</sup>

Transparency is addressed by allowing public access to the Council's work. Its decisions are published, and its sessions are open to the public except when it discusses confidential information.<sup>22</sup> The Broadcasting Council is also obliged to publish in either print or electronic media, and on its website, information about open competitions for broadcast licences, the number of applicants in such tenders, and the decisions and minutes of its meetings. The Council must also inform the public about its work in the media at least once every three months. So far, the regulator has published such information only on its website.

According to the 2005 Broadcasting Law, the Council must organise public meetings with the main stakeholders at least once every three months in order to give them the opportunity to present their views and opinions on broadcasting-related issues.<sup>23</sup> Three such meetings have been organised so far. The first one focused on the reform of public radio stations, the second on rules for protecting younger viewers from programme content that could harm their development, and the third on broadcasting strategy. To increase transparency in the sector, the Broadcasting Council should organise more such debates. The Council continues to be accountable to Parliament, to which it must submit an annual report. If Parliament finds irregularities in the report, it can ask the Broadcasting Council to present a new financial report within 60 days.<sup>24</sup>

<sup>21</sup> These by-laws can be found on the Broadcasting Council's website ([www.srd.org.mk](http://www.srd.org.mk), accessed 16 October 2007).

<sup>22</sup> Broadcasting Law, Art. 33. The law does not, however, define what "confidential" information means. According to article 49 of the Rulebook of the Broadcasting Council, adopted on 19 June 2006, the Council defines confidential information as "data that are classified as state, military or business secret." (Rulebook of the Broadcasting Council and the Conclusion for amending the Rulebook No.02-1643/3, adopted on the 15th session the Broadcasting Council held on 19 June 2006, available online, in English, at <http://www.srd.org.mk/default-en.asp?ItemID=814684FAE9355D4D8AC4357EA8FF7E95>, accessed 16 October 2007). The rationale behind this provision was, among other things, to protect data on broadcasters that, if made public, could influence competition. In its current form, this provision fails to protect broadcasters.

<sup>23</sup> Broadcasting Law, Art. 33.

<sup>24</sup> Broadcasting Law, Art. 35.

The Council supervises the enforcement of the legal requirements and restrictions on programming, and the licence conditions.<sup>25</sup> The 2005 Broadcasting Law envisages several measures in case of breach of legal provisions and licence conditions.

**Table 3. New sanction powers of the Broadcasting Council**

Written warnings	Any violations of legal provisions, by-laws adopted by the Broadcasting Council, and licence conditions
Warnings that must be aired by the broadcaster.	Repeated violation of legal provisions by a broadcaster.
Temporary prohibition (from one to seven days) on broadcasting advertising and teleshopping.	Violations of provisions on programme standards, advertising, teleshopping and sponsorship.
Temporary prohibition on broadcasting for a period of up to three months.	<ul style="list-style-type: none"> <li>• Repeated violations by a broadcaster after three previous sanctions.</li> <li>• Airing content that instigates the violent overthrow of the constitutional order of the country or to military aggression.</li> <li>• Airing content that incites national, racial or religious hatred and intolerance.</li> <li>• Airing pornographic content, excessive violence, or content that may seriously harm the physical, mental and moral development of children and young people.<sup>26</sup></li> <li>• The broadcaster’s failure to publish a report on its operations (including changes in ownership structure, management and governing bodies, in sources of financing, and statutory changes), at least in one daily newspaper and in its own programming.<sup>27</sup></li> </ul>

Source: OSI research

In 2006, the Broadcasting Council issued 16 written warnings (eight to TV stations and eight to radio stations) and two written warnings with the request of being aired (both to TV stations). The former 16 written warnings were imposed for broadcasting programmes that did not comply with the licence conditions, for breaching programme principles, inciting national, religious and gender intolerance, for pornographic programmes, for breaching advertising limits, and for broadcasting programmes without copyrights. The latter two written warnings with a request to be

<sup>25</sup> Broadcasting Law, Art. 163.

<sup>26</sup> Broadcasting Law, Arts. 69–70.

<sup>27</sup> This obligation was never fulfilled by any broadcaster and the Broadcasting Council has never applied this sanction. The provision was crucial for ownership transparency, one of the most controversial issues in Macedonian broadcasting.

aired<sup>28</sup> were issued for the repeated broadcasting of pornographic content and a breach of advertising limits, respectively.<sup>29</sup> In 2007, the Broadcasting Council imposed 166 sanctions on private broadcasters and seven sanctions against MRT.<sup>30</sup>

A hazardous development that could have reduced regulatory independence was the Government's plan to merge the two regulatory authorities, the Broadcasting Council and the AEK. This move was supposed to consolidate the broadcasting and electronic communications market,<sup>31</sup> but some feared that it was really aimed at restoring political control. A new Electronic Communications bill, drafted in 2007, proposed merging the two bodies into a single entity, tentatively called the Agency for Electronic Communications and Broadcasting. The agency's five-member board would be nominated, and could be replaced, by the Parliamentary Commission for Appointments and Nominations. Under pressure from media organisations in Macedonia and recommendations from the EU to implement the existing legislation,<sup>32</sup> the Government dropped this plan. Although the merger is likely to happen in the future, independent observers find it inappropriate because the two institutions were just established and have not yet had time to mature.<sup>33</sup>

## 2.2 Licensing system

Under the 2005 Broadcasting Law, the Broadcasting Council is responsible for allocating, revoking and renewing broadcast licences.<sup>34</sup> Previously, these tasks were fulfilled by the Government, albeit at the Council's proposal. All the rules and procedures on licensing are stipulated in the Law. Thus, the Broadcasting Council

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<sup>28</sup> Broadcasters are obliged by law to air this warning (Broadcasting Law, Art. 38). But the Broadcasting Council did not monitor to check whether the faulty broadcasters did so. The Broadcasting Council regularly publishes all the offences on its website.

<sup>29</sup> Report of Broadcasting Council of the Republic of Macedonia from 1 January 2006 to 31 December 2006. (hereafter Broadcasting Council 2006 Annual Report), available online (in English) at <http://www.srd.org.mk/?ItemID=F9F443A05EB69245AF39F200984AA8BB> (accessed 16 October 2007).

<sup>30</sup> Broadcasting Council, Annual Report 2007, *op. cit.*

<sup>31</sup> Verce Georgievska, "Mediumite stravuvaat od noviot zakon za radiodifuzija" (Media are afraid of the new broadcasting law), *Utrinski vesnik*, 31 March 2007.

<sup>32</sup> Commission of the European Communities, The Former Yugoslav Republic of Macedonia 2007, Progress Report accompanying the communication from the Commission to the European Parliament and the Council. Enlargement Strategy and Main Challenges 2007–2008, COM (2007) 663 Final, Brussels, 6 November 2007, SEC(2007) 1432 (hereafter 2007 EU Annual Report Republic of Macedonia).

<sup>33</sup> Interview with Bardhyl Jashari, *op. cit.*

<sup>34</sup> Broadcasting Law, Art. 37.

must announce a public tender for licences.<sup>35</sup> They then make a decision based on the following criteria:

- the nature of the programme service;
- the generic and thematic diversity of programme contents;
- the percentage of total planned daily programming originally produced in the Macedonian language or in the languages of ethnic minorities;
- the ratio of programmes covering events and cases of relevance for the area covered by the broadcast programmes;
- the ratio of European audiovisual works and programmes promoting the development and preservation of the national culture;
- technical requirements for producing and transmitting programmes in compliance with the prescribed standards;
- available space and facilities;
- volume and structure of human resources;
- financial capacity;
- the planned contribution to the promotion of pluralism in broadcasting activity.<sup>36</sup>

(The references to diversity and pluralism, and to European programming, were new in the 2005 Law.) After the Broadcasting Council has decided who shall receive a broadcast licence, the AEK issues a technical licence for the use of the frequency. The last step belongs to the Broadcasting Council, which grants a broadcast licence based on the certificate of registration issued by the AEK. Under the 2005 Broadcasting Law, applicants who are not satisfied with the Council's decision may challenge the decision by law.<sup>37</sup> Previously, they did not have this right.

The licensing system applies to all electronic media at national, regional and local levels. The 2005 Broadcasting Law changed the minimum amount of daily broadcasting that broadcasters must provide. At national level, they are obliged to broadcast at least 18 hours of daily radio programming and 12 hours of daily television programming. At regional level, radio stations must air at least 12 hours of daily programming, and television channels at least eight hours. Local radio stations must air

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<sup>35</sup> Broadcasting Law, Art. 43.

<sup>36</sup> Broadcasting Law, Art. 51.

<sup>37</sup> Broadcasting Law, Arts 54–55.

a minimum of 10 hours of daily programming and local TV stations at least six hours.<sup>38</sup>

The broadcast licence should include data on the licence holder, technical means of transmission, the serviced area, location of the technical means, deadlines for the launch of broadcasting, duration of the licence, etc. The licence is granted for nine years, cannot be transferred to a third party, and must be paid for by an annual fee.<sup>39</sup> The new legal provisions are implemented according to expectations. A total of 115 out of 123 private radio and television broadcasters responded to a call from the Broadcasting Council to turn in their concession titles in exchange for broadcast licences. The remaining eight broadcasters did not do that and as a result they are to see their concessions revoked.

The elimination of concessions in favour of broadcast licences is expected to reduce Government interference in broadcast regulation. The Broadcasting Council has become the sole body in charge of allocating, revoking and renewing broadcast licences. Under the previous law, at the proposal of the Broadcasting Council, the Government only offered broadcasters concessions for the use of frequencies, which was considered to be direct interference in broadcasting matters.

A total of 114 private radio and television broadcasters received broadcast licences. They comprise:

- 8 nationwide broadcasters (5 TV and 3 radio stations);
- 27 regional broadcasters (11 TV and 16 radio stations);<sup>40</sup>
- 79 local broadcasters (36 TV and 43 radio stations).

The most serious problem is the implementation of the new legislation during the harmonisation between the “Transitional and final regulations”.<sup>41</sup> For example, turning the concession titles into broadcast licences has proved to be difficult for the Council. The law obliges the regulator to complete this process within 18 months of the law coming into force.<sup>42</sup> The Council’s April 2007 demand to revoke the concessions for 23 private radio and TV stations that had failed to pay the fee for using

<sup>38</sup> Broadcasting Law, Art. 72.

<sup>39</sup> Broadcasting Law, Arts. 56, 58 and 60.

<sup>40</sup> According to the Broadcasting Law (Art. 4), all these local radio and television stations airing on the territory of the City of Skopje have become regional broadcasters because the City of Skopje and its surroundings are considered a separate region.

<sup>41</sup> The “transitional and final regulations” (Arts. 168–180) define the period for harmonisation of the Broadcasting Law as the period when new members of the Broadcasting Council, the MRT Council and the MRT Management Board are appointed, along with the station’s Executive Director and its Deputy Executive Director, the change of the concession agreements into licences, and the adoption of the national Strategy for the Development of Broadcasting.

<sup>42</sup> Broadcasting Law, Art. 172.

their licences has not been resolved.<sup>43</sup> Instead, two months later, the regulator gave these stations broadcast licences.

In the cable television market, the registration of programme packages is now under way.<sup>44</sup> Of the 118 cable operators, only 53 registered their operations with the Broadcasting Council. Other requests were rejected mainly because they did not have the confirmation from the Ministry of Culture of compliance with copyrights and related rights.<sup>45</sup> Foreign investments in the cable networks are expected. The Bulgarian company CableTel, with U.S. capital, is taking over 13 cable operators in Skopje, and in the towns of Kumanovo, Veles and Tetovo. They are said to be negotiating for more acquisitions as part of a larger process of consolidation in the cable sector. Besides television, the company is planning to introduce other services such as broadband Internet and telephony. It also plans to buy into more operators.<sup>46</sup>

According to various local media critics, instead of focusing on the implementation of new legislation, the Broadcasting Council had to waste its time fending off external pressures. Over the past two years, the regulator has adopted a set of by-laws and rulebooks, but has been slow to implement them. Over the past year, the Broadcasting Council has been more active in implementing the law and in monitoring the sector more efficiently.

Serious problems are expected to arise in the transition to digital broadcasting, which has already started. In February 2008, despite the lack of a legal or policy framework, the State wanted to announce a tender for the digital multiplexes that would carry broadcast programmes. The Slovenian telecom operator On.net is tipped as the favourite to gain control of three out of four multiplexes that are up for grabs in the first phase of transition. The fourth multiplex is expected to be reserved for MRD and would host the programmes of the public service broadcaster. The tender was postponed but is likely to be carried in June 2008. The AEK is working on a set of criteria for this tender. Civil society organisations such as the MDC argue that such an important process should be preceded by a broad debate with all interested

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<sup>43</sup> On 19 February 2007, the Broadcasting Council requested that the Government revoke the concessions for these stations. On 27 April 2007, the Government informed the Council that they were delaying the decision. The Broadcasting Council dropped the request on 3 May 2007, arguing that as the licensing procedure was at the end, they have decided to grant broadcast licences to all those parties that met the legal requirements.

<sup>44</sup> According to the Broadcasting Law (Art. 109), cable TV operators must register the programme services as a whole package with the Broadcasting Council. They also must submit proof from the Ministry of Culture confirming compliance with copyrights and related rights.

<sup>45</sup> Broadcasting Law, Art. 109.

<sup>46</sup> Verce Georgievska, "Osum kabliski operatori formiraa konzorcium" (Eight cable operators form a consortium), *Utrinski vesnik*, 11 June 2007, available online (in Macedonian) at <http://www.utrinskivesnik.com.mk/> (accessed 11 April 2008).

stakeholders on the regulatory model that would best fit the digital environment, especially the model of regulation for digital terrestrial broadcasting.

### 3. REGULATION AND MANAGEMENT OF PUBLIC SERVICE TELEVISION BROADCASTING (PSB)

#### 3.1 PSB legislation and policy

The 2005 Broadcasting Act brought some important changes for MRT, which is no longer regulated by a separate law.<sup>47</sup> MRT's management structure, which had consisted of the Board, the Financial Supervisory Board and the Executive Director, is now composed of the MRT Council, the Management Board and the General Director. Under the 2007 amendments, the General Director can be also a foreigner. Later that year, the Constitutional Court challenged the constitutional basis of this provision and found it unconstitutional, on the grounds that it was against the national interest to have foreigners appointed to manage public institutions.

MRT consists of three TV channels and four radio channels. MTV is required by the 2005 Broadcasting Act to air one TV service in the Macedonian language (MTV1) and one in the languages of the country's other non-majority communities (MTV2). Before, MTV2 used to air entertainment and sports programming. The third channel (MTV3), which used to broadcast minority programming, has been transformed into a Parliamentary channel airing programmes exclusively about the Macedonian Parliament. It began broadcasting in the new format in early 2005. Macedonian Radio (MR, *Makedonsko radio*) broadcasts two channels (MR1 and MR2) in the Macedonian language, and one channel (MR3) in the languages of the non-majority communities. MRT also broadcasts one radio and one television programme service (MKTV) via satellite.<sup>48</sup>

The 2005 Broadcasting Law elaborated the editorial and professional standards required of MRT programmes. Accordingly, MRT is obliged to produce and broadcast programmes of public interest that reflect the social and cultural diversity of Macedonia and consist of informative, cultural, educational, and scientific and entertainment content. To fulfil this mission, MRT should:

- ensure the protection of the programmes from any kind of influence from the Government, political organisations, or economic circles;

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<sup>47</sup> MRT used to be regulated according to the Law on the Establishment of the Public Enterprise Macedonian Radio-Television, *Official Gazette of the Republic of Macedonia*, no. 6/98, and the Law amending and appending the Law on the Establishment of the Public Enterprise Macedonian Radio-Television, *Official Gazette of the Republic of Macedonia*, no. 78/04. These provisions were incorporated in the 2005 Broadcasting Law, amended in 2007.

<sup>48</sup> Broadcasting Law, Art. 117.

- develop and plan the programme schedule in the interest of the entire public and produce and broadcast programmes for all segments of society without discrimination;
- ensure that the programmes reflect diverse ideas, nurture the cultural identity of the country's communities, respect cultural and religious differences and promote a culture of public dialogue with the aim of strengthening mutual understanding and tolerance for better relations between the communities in a multi-ethnic and multi-cultural environment;
- nurture, promote and develop all forms of national audiovisual works that contribute to the development of Macedonian culture as well as to the international affirmation of Macedonian cultural identity;
- nurture and develop the speech and language standards of all communities in the Republic of Macedonia;
- promote respect for fundamental human rights and freedoms, democratic values and institutions, for the privacy, dignity, reputation and honour of citizens;
- develop, plan and broadcast programmes, informative shows and news intended for deaf persons;
- provide free of charge balanced amounts of time during election campaigns for broadcasting programmes made by political parties, coalitions, and candidates running for general, local, and presidential elections, in accordance with the rules for media presentation;<sup>49</sup>
- provide regional and local news coverage;
- create conditions for the use and development of modern technical and technological standards in producing and broadcasting programmes, and prepare a plan for digital transition in compliance with the national broadcasting strategy;
- safeguard and archive its own radio and TV recordings and documents as part of the audiovisual heritage of the Republic of Macedonia.<sup>50</sup>

MRT is also obliged in the process of producing and broadcasting its programmes to “adhere to professional principles and to provide equal access to different interests in society, to commit for the freedom and pluralism of expression the public opinion, as

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<sup>49</sup> The electoral rules are itemised in the Electoral Law, *Official Gazette of the Republic of Macedonia*, no. 40/06.

<sup>50</sup> Broadcasting Law, Art. 121.

well as to prevent any kind of racial, religious, national, ethnic and other kind of intolerance".<sup>51</sup>

The 2005 Law states for the first time that MTV1 and MTV2 should each carry European audiovisual works on at least 60 per cent of the total annual broadcasting time, not including news, sports events, games, advertising and teletext. Between 6 p.m. and 10 p.m., at least 40 per cent of MTV programmes (calculated annually) must have been produced in the Macedonian language or in the languages of the non-majority communities. This mandatory minimum falls to 30 per cent for daytime programmes. All channels of Macedonian Radio are obliged to broadcast at least 40 per cent of daily programming originally produced in the Macedonian language or in the languages of the non-majority communities, and at least 45 per cent of vocal-musical compositions in the Macedonian language or the languages of the ethnic communities.<sup>52</sup>

Programming restrictions on MTV include prohibition of: programmes that may have dangerous implications for the constitutional order; programmes that contain calls for belligerent aggression or incite national, ethnic, religious or gender hatred and intolerance; content that could harm the development of children and young people; and violations of provisions on teleshopping, sponsorship, and broadcasting of lotteries.<sup>53</sup> With the 2005 Broadcasting Law, the legal provisions on advertising became more restrictive. On TV, advertising is not allowed after 5 p.m. On radio, advertising between 9 a.m. and 2 p.m. is forbidden except during live coverage of full sport matches, cultural or major events as specified in the law.<sup>54</sup>

At MRT, digitalisation is still in an embryonic state. There is no budget to develop new media technologies and services, primarily due to the continuing financial crisis. In the framework of the national Strategy for the Development of Broadcasting, a special expert group on digitalisation, comprising professors of electro-technical studies and experts in electronic communications, was formed in March 2007.<sup>55</sup> In March 2008, the Broadcasting Council established a national advisory body for digitalisation, with a remit including MRT. It has held only one meeting. Its responsibilities and function are still unclear.

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<sup>51</sup> Broadcasting Law, Art. 122.

<sup>52</sup> Broadcasting Law, Arts. 123–124.

<sup>53</sup> Broadcasting Law, Arts. 69–70.

<sup>54</sup> Broadcasting Law, Art. 91.

<sup>55</sup> Plans for the implementation of digital broadcasting are part of the Strategy for the Development of Broadcasting, which is published on the Broadcasting Council website.

### 3.2 PSB governance structure

The governance structure of MRT consists of the MRT Council, the Management Board and the MRT General Directors. The MRT Council protects the public interest in MRT programmes and oversees the broadcaster's operation. The Management Board handles the daily management of the station. The General Directors manage and represent MRT.

The Management Board consists of seven members with a five-year mandate and the right to be re-elected once. They are now elected by the MRT Council through a public contest.<sup>56</sup> Before, the Management Board was composed of 11 members who were appointed by Parliament from among the nominees by the Parliamentary Commission for Appointments and Nominations and the Council of the MRT Employees, a body representing the station's employees.

The Management Board cannot include:

- Members of Parliament,
- members of the Government,
- managers of State bodies, State administration bodies or “local self-government units” (meaning Macedonia's capital city, Skopje, and the country's 84 municipalities),
- directors or members of executive boards of public enterprises,
- people working for political parties,
- people with shares in broadcasting organisations, news agencies, advertising companies, market and public opinion research companies, film distribution companies, film production companies and telecom operators,
- members of the MRT Council and employees of MRT.<sup>57</sup>

The Management Board has tasks such as managing all of the MRT's property, monitoring the work of MRT and the implementation of the annual financial plan, approving the operational plan and the annual accounts, and submitting the annual report.<sup>58</sup> The Management Board appoints the General Directors and their deputies.

The MRT Council consists of 23 members appointed for five years with the right to be re-elected once.<sup>59</sup> The following number of nominees are appointed by Parliament from the organisations listed below.

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<sup>56</sup> Broadcasting Law, Art. 134.

<sup>57</sup> Broadcasting Law, Art. 136.

<sup>58</sup> Broadcasting Law, Art. 138.

<sup>59</sup> Broadcasting Law, Art. 127.

five nominees:

- the Parliamentary Commission for Appointments and Nominations.

two nominees:

- the Skopje-based Ss. Cyril and Methodius University,
- Tetovo State University,
- the ZNM.

one nominee:

- St. Clement of Ohrid University in Bitola,
- the University of South Eastern Europe in Tetovo,
- the Albanian Theatre,
- the Turkish Theatre,
- the Association of Local Self-Governments,
- the Olympic Committee of the Republic of Macedonia,
- the Chamber of Commerce of the Republic of Macedonia,
- the Macedonian Association for Information Technology,
- the Music Academy,
- the Association of Composers,
- the Faculty of Dramatic Arts,
- the Community of Disabled Persons Associations in Macedonia.

More or less the same ineligibility criteria for the Management Board also apply to the MRT Council. In assessing the different candidates, Parliament must take into account the need for fair and equitable representation of the citizens of all communities.<sup>60</sup> In the current composition, ten of the Council's 23 members are from the Albanian, Turkish, Vlach and Roma ethnic communities.

The MRT Council is tasked with protecting the public interest in MRT's programmes based on the principles of editorial independence and autonomy, adopting the station's programming policy, and proposing and ensuring implementation of the programming guidelines. When these guidelines are breached, the Council has to send a written warning to the station's management or ask the management to stop airing the programme in question. The Council is also responsible for: appointing the members

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<sup>60</sup> Broadcasting Law, Art. 128.

of the Management Board; adopting the station's Statute; the station's annual balance sheet and annual report; acts regulating ethical and professional standards in MRT programmes; and the MRT development plan. The Council also adopts the annual budget and submits it to Parliament.<sup>61</sup>

Under the new structure, the MRT Council has been trying to influence the broadcaster, especially its editorial and programming policies. Given MRT's deep financial crisis and the 80-day strike by its employees in July 2006, the Council has had a difficult task since its appointment in May 2006. Six months later, the President of the Council, Goran Koevski, resigned saying that the strikers had no respect for the governing structures. Zoran Bojarovski, a journalist and teacher of journalism, was appointed Chair of the Council.<sup>62</sup> However, there are still frictions between the Council and MRT. A rescue plan for MRT, prepared by MRT's own managers, has not been accepted by the MRT Council.<sup>63</sup>

The General Director has a four-year mandate and may be re-elected once. The Director is appointed by the MRT Management Board through a public contest. Before 2005, MRT's Executive Director was nominated and appointed by Parliament, with the ruling coalition usually having decisive power. Under the 2005 Broadcasting Law, the Directors are tasked with representing MRT publicly, managing the station's business policy, proposing the MRT Development Programme, proposing and implementing the annual budget, implementing the editorial and business policy, organising and managing the operational processes, enforcing the decisions adopted by the MRT Council and MRT Management Board, and appointing and dismissing management staff.<sup>64</sup>

Boris Stavrov was appointed MRT Director by the MRT Management Board on 13 November 2006. He has an MA in business administration and lectures at the American College in Skopje. Stavrov was coming from Makedonski Telekomunikacii, a national telecom operator, majority-owned by the Hungarian telecom provider Matáv. Stavrov was a member of the Board of Directors of T-Mobile, an affiliate of Makedonski Telekomunikacii.<sup>65</sup>

The 2007 amendments changed the MRT management structure once again. Instead of the General Director, the law introduced a management team consisting of two

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<sup>61</sup> Broadcasting Law, Art. 133.

<sup>62</sup> Verce Georgievska, "Pretsedatelot na Sovetot na MRT podnese ostavka" (The President of the MTR Council resigned), *Utrinski vesnik*, 7 November 2006, available online (in Macedonian) at <http://www.utrinskivesnik.com.mk/> (accessed 25 October 2007).

<sup>63</sup> Interview with Zoran Bojarovski, President of the MRT Council, 20 October 2007.

<sup>64</sup> Broadcasting Law, Art. 141.

<sup>65</sup> Verce Georgievska, "Menadžer od 'Telekom' doaga na celo na MRT" (Manager of the "Telecom" has become the head of MRT), *Utrinski vesnik*, 14 November 2006, available online (in Macedonian) at <http://www.utrinskivesnik.com.mk/> (accessed 1 April 2008).

executives and their deputies, equally responsible for the work of MRT. Another change is that it also allows foreigners to take over executive positions.<sup>66</sup> All other provisions regarding the appointment of the station's governing bodies and its tasks remained the same. The new provisions have been implemented and the station's current executive directors are Boris Stavrov and Slovenian national Janez Sajovic, who has worked on projects for the transformation of State broadcasting in Montenegro and Kosovo. He first joined MRTV as an OSCE consultant and was granted Macedonian citizenship a week before the Constitutional Court ruled that foreigners could not hold management positions in public companies.

In January 2008, Stavrov resigned on grounds of ill health. His place was taken in late March 2008 by Maja Mišovska, formerly a journalist with the weekly magazine *Puls* and the daily newspaper *Nova Makedonija*. She served as a member of the Supervisory Board of the pharmaceutical and chemical company Ohis. She was nominated by the Government for this position.

### 3.3 PSB funding

MRT is funded by the licence fee, advertising, sponsorship, donations, sales of programmes and services, and the State Budget.<sup>67</sup> The main source of financing should be the licence fee, levied on all households, hotels and motels, companies and office space owners, catering companies and other public facilities. It is calculated annually at 2.5 per cent of the average net monthly salary over the previous four-month period.<sup>68</sup> An amendment now pending in Parliament would reduce the fee to 1 per cent of the average net salary, as an incentive for people to pay.<sup>69</sup>

The current system of calculating the licence fee was introduced by the 1997 Law on Broadcasting Activity. Until 2006, the average collection rate was between 60 and 70 per cent. In 2006, the collection of the fee plummeted to 6 per cent amidst confusion caused by changing the mode of collection. This decline almost led MRT to collapse, and prompted the station's then Executive Director to resign. The employees were not paid for months on end. Combined with growing politicisation at the station, this prompted the staff to go on strike. In order to cool off the situation, the Government provided a cash injection by transferring money from the Public Enterprise for Airport

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<sup>66</sup> Law amending and appending the Law on Broadcasting (2007), Art. 4.

<sup>67</sup> Broadcasting Law, Art. 116.

<sup>68</sup> Broadcasting Law, Arts. 146–148.

<sup>69</sup> Draft Broadcasting Law, Art. 134.

Services (PEAS). The APEMM condemned this move as tantamount to Government sponsorship of MTV without addressing MRT's underlying problems.<sup>70</sup>

The budgets of MTV1 and MTV2, as well as those of the radio channels MR1, MR2 and MR3 are secured from the licence fee. The costs for producing the programme of the station's Parliament channel are covered by Parliament.<sup>71</sup>

The licence fee income is divided as follows:

- 72 per cent to meet MRT's production and broadcasting costs;
- 4.5 per cent to meet MRT's technical and technological development;
- 16 per cent to meet the costs on maintenance and use of the public broadcasting network incurred by MRD;
- 3.5 per cent towards MRD's public broadcasting network development;
- 4 per cent for the Broadcasting Council to regulate and develop broadcasting in Macedonia.<sup>72</sup>

The 2005 Broadcasting Law brought no significant change to the provisions on advertising on MRT. MTV continues to have a limit of 7 per cent or 4 minutes and 12 seconds per hour. This applies only to film, sports and entertainment programmes. MTV cannot carry advertising between 5 p.m. and 9 p.m.<sup>73</sup>

Most worrying is MRT's negative balance between its income and spending due mostly to the collapse of licence fee funding. In the last six months of 2006, the collection rate sank to a mere 6 per cent. During that period, collection was transferred from the Electrical Power Company of Macedonia (EVN Macedonia) to MRT.<sup>74</sup> The Government pledged to provide a sum equivalent to 80 per cent of the total licence fee revenue for the last six months of 2006, from the State budget, so that MRT could

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<sup>70</sup> Marjan Blazevski, "APEM protestira poradi MRTV" (APEMM protests against MRT), *Dnevnik*, 9 May 2007, available online (in Macedonian) at <http://www.dnevnik.com.mk/?itemID=42DB9B4796728F458AADE88E7862A5B3&arc=1> (accessed 1 April 2008).

<sup>71</sup> Broadcasting Law, Art. 119.

<sup>72</sup> Broadcasting Law, Art. 149.

<sup>73</sup> Broadcasting Law, Art. 51 and *The Bulletin of the Broadcasting Council of the Republic of Macedonia*, Vol. 1, 1998.

<sup>74</sup> Broadcasting Law, Art. 147.

pursue its reform strategy before it started to collect the licence fee itself.<sup>75</sup> However, payment of the first instalment was delayed by more than a year.<sup>76</sup>

Making matters even worse, the licence fee has not even been collected since January 2007 because MRT claimed not to have a list of the households that should pay the tax. (Only a year before, almost every household in the country had received the licence fee bill.)<sup>77</sup> Thus, payment dropped dramatically in 2007 to a mere 0.5 per cent of households. In MRT's working plan for 2007, the station planned to cover only 9 per cent of its budget from the licence fee, although the fee had previously been considered the basic source of MRT's income. The exact figure of MRT's annual budget is unknown. As things stand today, MRT is so under-resourced that it can hardly meet its basic obligations.

**Table 4. MRT budget in 2005–2006**

Types of revenues	Share of total income (as percentage)	
	2005	2006
Broadcasting tax	86.9	16.5
Revenue from advertising	6.8	56.8
Revenue from sponsorship	0.1	0.5
Revenue from donations	0.0	2.2
Other revenue	6.2	24.0
Total	100.0	100.0

Source: Broadcasting Council<sup>78</sup>

The main problem with financing MRT is the reluctance of management to try and collect the fee more efficiently because it is easier to wait for Government handouts. This tacit acceptance of a disastrous situation is systematically perpetuated by politicians who want to keep MRT financially dependent on the State. Others blame MRT for failing to collect the fee efficiently.

<sup>75</sup> Broadcasting Law, Art. 178.

<sup>76</sup> Verce Georgievska "Krizata vo MRT ke se sanira so pari od javnite pretprijatija" (The crisis at MRT will be overcome with the money from public enterprises), *Utrinski vesnik*, 3 February 2007, available online (in Macedonian) at <http://www.utrinski.com.mk/?ItemID=F118F374B9C87A46A7EBCF1BD25942F6> (accessed 1 April 2008).

<sup>77</sup> Interviews with media experts and activists, Skopje, 7–10 April 2008.

<sup>78</sup> Broadcasting Council, 2006 Annual Report and 2007 Annual Report.

### 3.4 Editorial standards

The 2005 Broadcasting Law obliges all broadcasters, both commercial and public service, to base their work on the principles of “objective and unbiased presentation of events, with equal treatment of diverse views and opinions, enabling the free creation of a public opinion on individual events and issues”, as well as on “autonomy, independence and accountability of broadcasters, editors, journalists and other actors involved in the creation of programmes and editorial policy”.<sup>79</sup> MRT has implemented the same principles in its Declaration on Professional and Ethical Principles for Programmes, a self-regulatory ethical code that was introduced in 2003. The Declaration states that “the information presented by the broadcaster should not be biased, while the facts and positions that are presented [in programmes] must be balanced and ethically proper”. The same declaration states that “the information and the other contents must be precise and properly cited”.<sup>80</sup>

Responsibility for upholding these standards rests with the MRT Council. According to the Broadcasting Law, the Council “takes care of the realisation of the public interest in the programmes of MRT on the basis of the principles of editorial independence”.<sup>81</sup> This stipulation also appears in the MRT Statute.<sup>82</sup>

However, the implementation of these obligations has sometimes been flawed. For example, the documentary *Mojot zivot za Makedonija* (My life for Macedonia) was found by media experts and observers to have offended the office of the president, having branded President Branko Crvenkovski a “recycled communist” who had failed as a Prime Minister and managed to gain the presidency by making promises that he never fulfilled. It was a documentary about the former Minister of Interior Ljube Boskovski who is now standing trial at the International Criminal Tribunal for the former Yugoslavia in The Hague, indicted over his actions during the inter-ethnic conflict in 2001 in Macedonia. The documentary’s author was Zoran Krstevski, an associate producer with MRT. In a separate documentary about the ethnic group known in Macedonia as Mijaci, Albanians were characterised as criminals.<sup>83</sup>

In both cases, MRT reacted under the pressure of media experts, NGOs and journalists. In the first case the MRT Council asked for MTV1’s editor-in-chief to respond. In the second case the Council publicly apologised to Albanians and the journalist who produced the documentary came close to losing his job.

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<sup>79</sup> Broadcasting Law, Art. 68.

<sup>80</sup> MRT, “Declaration on Professional and Ethical Principles for Programmes”, 2003, Skopje, internal MRT document, available in the MRT archives.

<sup>81</sup> Broadcasting Law, Art. 133.

<sup>82</sup> Statute of the public enterprise Macedonian Radio Television, Art. 32. Available online (in Macedonian) at <http://www.mkrtv.org.mk> (accessed 25 October 2007).

<sup>83</sup> *Mojot zivot za Makedonija* was aired on 16 April 2007 and *Mijaci* on 5 June 2007, both on MTV1.

## 4. COMMERCIAL BROADCASTING

### 4.1 Regulation and management

Private radio and TV stations are organised and regulated at three levels: national, regional and local. The nationwide broadcasters reap most of the revenues. There have been no significant changes in their structure and programmes. A commercial broadcaster could be run by a legal entity or individual. Political parties, State institutions and administration bodies, public enterprises, local self-government units, public office holders and members of their families are barred from running broadcasting activities.

Broadcasters are obliged to have a logo continuously displayed during their television programmes. Radio stations must air their names at least once every hour of programming. They must broadcast programmes in the Macedonian language except for cases of programmes directed at a non-majority community. Foreign-language programmes must be translated into the Macedonian language, or into a language of the non-majority communities.

The Broadcasting Law obliges every broadcaster to have an editor-in-chief in charge of the programming and responsible for the content and the accuracy of all information broadcast during programmes. The name and the surname of the editor-in-chief and the programme editor must be displayed at least once a day during the programme. These obligations are imposed on all broadcasters.<sup>84</sup>

### 4.2 Ownership and cross-ownership

The 2005 Broadcasting Law liberalised the rules on media ownership, for both local and foreign subjects. A nationwide broadcaster can have an ownership stake in one more broadcaster, but no more than 50 per cent. It can co-own only a regional broadcaster and maximum of two local broadcasters. A regional broadcaster can have a majority stake in only one more regional broadcaster and a maximum of two local broadcasters if the two regions where the stations operate do not share a common border. The 2005 Broadcasting Law did not bring any changes for local broadcasters. As in the past, a local broadcaster can own a majority stake in no more than two other local broadcasters.<sup>85</sup> However, local broadcasters are allowed to form networks and to broadcast a unified programme for several hours per day.

As of 2005, foreigners were given the green light to own broadcast companies under the same terms applied to Macedonian individuals and legal entities.<sup>86</sup> Before 2005,

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<sup>84</sup> Broadcasting Law, Art. 141.

<sup>85</sup> Broadcasting Law, Arts. 82–84.

<sup>86</sup> Broadcasting Law, Art. 14.

foreigners could co-found a broadcasting company and own a maximum 25 per cent of its capital share. Currently, no foreign companies operate in the Macedonian broadcast media. The sole foreign investment is in cable television operators. Foreign investment in general is still slow in the Republic of Macedonia for a range of economic, political and legal reasons. It is particularly slow in the media market because of a dearth of accurate data, due to an inadequate system of people-metering. Research companies do not want to carry out a people-meter measurement based on a larger viewer sample because this is costly and does not pay off in such a small market. A parallel system put in place, for example, by the regulator could help to yield more accurate data that would bring more competition to the advertising market and at the same time attract foreign broadcasters.

In a chapter on the protection of pluralism, diversity and transparency, the 2005 Broadcasting Law defines illegal media cross-ownership as occurring when the “founders” of a radio or TV station:

- own more than the maximum legal number of broadcast companies;
- own a publishing company that publishes a daily newspaper which is distributed in the area covered by the broadcast radio and/or television programmes of the station they want to buy into;
- own a news agency;
- own advertising companies, market and public opinion research companies, audiovisual distributors, film production companies, or telecommunication providers;
- are “related persons”.<sup>87</sup>

Illegal media concentration is monitored by the Broadcasting Council, which is obliged to give the owners in question a period of three months to bring their operations into line with the law. If the broadcaster fails to act, the Broadcasting Council should implement the procedure for revoking their licence.<sup>88</sup>

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<sup>87</sup> The term “related persons” is defined as the following: family members (parents, children, siblings, adoptive parents and adoptees); married and unmarried couples; members of the spouse’s immediate family; shareholders or holders of other rights on basis of which they participate in the management of the broadcaster, with at least 25 per cent of the voting rights; persons that hold a total share of ownership in two broadcasters or other rights on the basis of which they participate in the management of each of the voting rights; persons who, on the basis of a marketing or another business co-operation contract, generate over 30 per cent of the advertising, teleshopping or sponsorship income of a given broadcaster in a year; members of the managing or supervisory board of a given broadcaster; and persons related to the member of the managing and supervisory board of the organisation.

<sup>88</sup> Broadcasting Law, Art. 15.

However, this procedure is hard to implement. For example, although ownership of a TV station and a print media outlet is not allowed under the law, this provision is not complied with, and the Broadcasting Council does not react. Formally, the companies are registered under different names and there are no mechanisms to track down the real ownership and thus prove media concentration. An example is the owner of the private station A1 TV, who also owns the daily newspapers *Spic* and *Vreme*, and the weekly *Nedelno vreme* (now bankrupt). The Government should either ensure that the law is strictly implemented, or amend it to allow a full liberalisation of the market.<sup>89</sup>

Another problem is that influential politicians, including party leaders, are the real owners of electronic outlets whose legal owners are listed in the Central Register as other people, close to those politicians. The Commission for Protection of Competition (*Komisija za zastita na konkurencijata*) is authorised to launch investigations and legal procedures, and may do so also at the request of citizens. In practice, it has done very little.

The Broadcasting Law obliges broadcasters to inform the Broadcasting Council about all changes in their ownership structure. Broadcasters are obliged to publish a report on their operations once a year, including changes in ownership structure, statutory changes, changes in the managing and governing bodies and sources of financing. The regulator has been reacting to such situations. It castigated the TV station Skaj Net for changing its ownership structure without informing the regulator, which then took legal action,<sup>90</sup> proposing to the Government to take away Skaj Net's licence. In the end, Skaj Net managed to keep its licence.

Restrictions concerning ownership concentration are related to cases when:

- the broadcast entity resulting from a merger gains a dominant position in the advertising market, i.e. its share of the total advertising time in radio and television exceeds 30 per cent;<sup>91</sup>
- the broadcast entity resulting from a merger gains a dominant position in the creation of public opinion, i.e. its share of the total audience exceeds 40 per cent;<sup>92</sup>

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<sup>89</sup> Erol Rizaov, "Novinarskata fabrika stana koncern" (Journalists' factory has become a cartel), *Utrinski vesnik*, 7 April 2007, available online (in Macedonian) at <http://www.utrinski.com.mk/?ItemID=1F83A863BE62FE4FBA6DD0B05732B7F4> (accessed 13 March 2008).

<sup>90</sup> Broadcasting Law, Art. 17 and Art. 166 (part for "Penalty provisions").

<sup>91</sup> The advertising market encompasses the total TV advertising revenues during the year preceding the merger.

<sup>92</sup> The total audience is calculated on the basis of indicators of audience measurements for the entire calendar year preceding the merger.

- mergers of regional and local broadcasters lead to a situation whereby the newly-created broadcasting company covers more than 50 per cent of the total population of the country.<sup>93</sup>

No such cases have yet been registered.

### 4.3 The advertising market

The structure of the media industry has not changed significantly for many years. The main actors are the national commercial TV stations while a large number of local radio and TV stations struggle to survive. The situation is even worse in small towns with poor economies.

The largest slice of the advertising pie is shared by A1, Kanal 5 and Sitel, with MTV taking an insignificant portion of this revenue. The gross TV advertising spend in 2006 was MKD 7.4 billion (€121.1 million), which was 79.8 per cent of the total advertising spend in the country.<sup>94</sup>

**Table 5. Share of TV advertising revenues in gross figures in 2006**

Channel	Market share (as percentage)
A1	51.0
Kanal 5	21.6
Sitel	17.1
Telma	7.7
Alsat M	0.9
Era Skopje	0.8
MTV1	0.8
MTV2	0.1

Source: Media & Advertising<sup>95</sup>

<sup>93</sup> The coverage is calculated on the basis of indicators of the last population census in the Republic of Macedonia (Broadcasting Law, Art. 17).

<sup>94</sup> IP International Marketing Committee, *Television 2007. International Key Facts*, October 2007, p. 272.

<sup>95</sup> Media & Advertising, “Analytica”, Skopje, 2007.

Most of the violations of legal provisions are related to advertising. According to the latest data from the Broadcasting Council, the stations that pull in most of the TV advertising money break the law by often airing advertisements during newscasts, programmes for children, or by broadcasting hidden advertising, and exceeding the advertising caps.<sup>96</sup>

#### 4.4 Editorial standards and independence

The Broadcasting Law regulates the issue of editorial independence from the Government and businesses. Every broadcaster must have an editor-in-chief, responsible for the contents and accuracy of all information broadcast in a given programme.<sup>97</sup> At the same time, journalists from all media are ensured the protection of their sources used in the programmes.<sup>98</sup>

However, in reality, political neutrality and lack of bias in reporting are hard to preserve when the most influential TV stations are owned by leaders of political parties or other persons with political connections. The owner of Sitel is the silicon manufacturer Sileks, which is controlled by Ljubisav Ivanov, an MP and Chair of the Socialist Party. His son, Goran Ivanov, is the Director of the station.<sup>99</sup> The owner of Kanal 5 is Emil Stojmenov, son of Boris Stojmenov, former Minister of Finance.<sup>100</sup>

Favourable coverage of a certain political party or circle is visible especially during election campaigns. This was the case in 2006, according to the monitoring by the Broadcasting Council, which imposed 90 sanctions for violation of the provisions on equal opportunities for presentation in the media during parliamentary elections. They were related to unbalanced coverage of the elections and broadcasting of paid political advertising. Commercial broadcasters were found at fault when they gave more time than allowed to a certain political party.<sup>101</sup>

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<sup>96</sup> Database of the Broadcasting Council, Programming Unit, 2007.

<sup>97</sup> Broadcasting Law, Art. 84.

<sup>98</sup> Broadcasting Law, Art. 162.

<sup>99</sup> For more information on the ownership structure of TV stations in Macedonia see *Mediumskata sopstvenost i nejinoto vlijanje vrz nezavisnosta na mediumite i pluralizmot* (Media ownership and its influence on independence of media and pluralism), Makedonski Institut za mediumi (Macedonian Institute for Media), Skopje, 2004, pp. 63–68.

<sup>100</sup> Broadcasting Council, 2007 Annual Report.

<sup>101</sup> Monitoring report by the Broadcasting Council on coverage of the election campaign of the 2006 parliamentary elections. Available at <http://srd.org.mk> (accessed 16 October 2007).

## 4.5 Regional and local broadcasting

The 2005 Broadcasting Law introduced the concept of regional broadcasting, defining it as “broadcasting activity pursued by a broadcaster that provides coverage, in terms of listeners and viewers, for a territory of several municipalities that form a natural geographic or demographic entity, with a population [ranging] from 150,000 to 400,000 citizens. The City of Skopje and its surroundings shall be considered as separate region.”<sup>102</sup>

In accordance with the new regulations, from the existing stations that received broadcast licences, those airing in the Skopje area, a total of 27 stations (11 TV stations and 16 radio channels) received regional licences. Most of them are generalist channels geared towards entertainment. The radio stations mostly fill their schedules with music and talk shows. Local TV stations are defined by law as broadcasters covering areas of a single settlement and its surroundings with a total population of up to 150,000 citizens.<sup>103</sup> Concerning the number of local stations and their programmes, there have been no significant changes. Entertainment dominates their programming too. Local stations are struggling to survive as a result of the scarcity of financial resources and the underdeveloped local economy.

Although the 2005 Broadcasting Law also introduced the concept of non-profit broadcasting, this sector is practically non-existent. Only one licence has been awarded so far – to a student radio station. To develop this sector, the Broadcasting Council should adopt by-laws containing provisions to help boost non-profit broadcasters. The regulator should also discuss with civil society groups and assess the potential of the non-profit sector before doing this.

## 5. PROGRAMMING

### 5.1 Output

Programmes on MTV are not very different in quality from those on private stations, despite differences in generic output, as MTV airs significantly less entertainment and more educational programming than its commercial rivals.

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<sup>102</sup> Broadcasting Law, Art. 4.

<sup>103</sup> Broadcasting Law, Art. 4.

**Table 6. Output of the largest nationwide TV stations in 2006 (as percentage)<sup>104</sup>**

Channel	Genre		
	Entertainment	Information and news	Educational programming
MTV1	47.4	27.1	25.5
A1	72.6	22.7	3.3
Sitel TV	74.0	22.3	3.6

On local TV stations, drama serials, mainly US or Latin American soap operas, dominated the schedules last year, while the remainder of the output focused on entertainment and music.<sup>105</sup>

The public retains its preference for reality formats, newscasts, sports and drama serials (soap operas). The most viewed programme in the country in 2006 was the quiz show *Who Wants to be a Millionaire?*, aired on A1 TV, which scored an average audience rating of 29.3 per cent. The main newscast on A1 TV also achieved high average audience ratings (27.5 per cent). It was followed by the football World Cup (23.5 per cent), which was aired by MTV, and the Macedonian animated show *Ednooki* (One-eyed Man) on A1 TV with 22.1 per cent.<sup>106</sup>

All nationwide TV stations are generalist. They give generous room to films. News programmes occupy a central place in their in-house production. Newscasts are aired several times a day, with primetime bulletins lasting up to one hour. News is the genre in which these media compete directly, both in content and in the number of engaged journalists, which is understandable, given that news is one of the favourite genres of the Macedonian audience. News is mostly watched on private TV stations. For example, 51.0 per cent of the nationwide audience watches the news on A1 every day, 33.0 per cent on Kanal 5, and 26.0 per cent on Sitel television. MTV1 newscasts are watched by 18.0 per cent of the audience, and MTV2 by 11.0 per cent.<sup>107</sup>

Unfortunately, programming continues to be plagued by blatant breaches of copyright. Pirated broadcasts by cable networks, for example, seriously damage the State budget and indirectly the advertising market. Civil society groups such as the MDC try to institutionalise co-operation between various State bodies to fight piracy. The steps in their fight include implementing the legislation on piracy, educating the actors

<sup>104</sup> Database of the Broadcasting Council, monitoring of the public and private radio and television stations, internal material, February 2007.

<sup>105</sup> Monitoring of radio and television programmes, Broadcasting Council, internal document, 2007.

<sup>106</sup> SMMRI, "Top 20 programmes in 2006", Skopje.

<sup>107</sup> SMMRI, "Programski potrebi na televiziskata publika vo Republika Makedonija" (Programme needs of television audiences in the Republic of Macedonia), June 2007.

involved in combating piracy, co-ordinating the work with judges and courts, and creating a database of copyright holders.

## 5.2 General provisions and quotas

The Broadcasting Law follows all the European standards for media and the audiovisual *acquis communautaire*. The programme standards for European works, original works in Macedonian and other local languages, are elaborated in detail. National private broadcasters are obliged to air European audiovisual works on at least 51 per cent of their total annual broadcast programming. MRT must fill at least 60 per cent of their total broadcast output with such works.

Private broadcasters are obliged to dedicate at least 30 per cent of their daily broadcast time to programmes created in the Macedonian language or in the languages of other communities, and MRT at least 40 per cent. MRT complies with this obligation, and even exceeds it. MR programming on all three radio services is entirely original. In the private broadcasting sector, nationwide and regional radio and TV stations fulfil these quotas. Most of the local private stations fall far short, however, because they cannot afford to buy the programmes that would help them to achieve the required minimum.

All broadcasters are obliged to devote at least 30 per cent of their broadcasting to vocal-musical compositions in the Macedonian language or in the language of the ethnic communities. MRT fulfils this obligation especially on its radio services. Local private radio and TV stations largely comply with this quota.<sup>108</sup>

In the category of special obligations on programming for all broadcasters, the Broadcasting Council defined in its decisions and regulations all the issues regarding the events of major importance, events with exclusive rights for broadcasting, protection of cultural identity, promotion of European audiovisual works, protection of youth, obligations for advertising and sponsoring.

For the first time, broadcasters now define their programming according to the formats put forward by the Broadcasting Council on 30 November 2006. TV stations on all levels broadcast predominantly programmes with a “generalist format of entertaining character”. Nationwide and regional radio stations employ predominantly “music/talk show” formats. Local radio stations employ “the talk show/music” format.<sup>109</sup> Programmes are modest and unvarying, especially on local broadcasters.

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<sup>108</sup> Broadcasting Council, “Monitoring of the radio and televisions’ programmes”, 2007.

<sup>109</sup> Broadcasting Council, “Analysis of the programmes offered for the harmonisation of the concession titles with the broadcast licenses”, 2007.

### 5.3 Obligations on PSB

MTV has additional programme obligations. They include the obligation to provide regional and local coverage. Every day, MTV1 has a programme with such coverage and MR1 airs two such programmes. MR is also obliged to broadcast special programmes for neighbouring countries and Europe, as well as programmes for the citizens of Macedonia living in diaspora. Also, MRT must provide a programme service covering exclusively the activities of the Assembly of the Republic of Macedonia. The Parliamentary channel has a special legal status. It is organised by Parliament, and the monitoring of its work is an obligation of a special commission within Parliament.

MRT also has special obligations regarding language. It has to offer programmes not only in Macedonian, but also in the languages of the ethnic communities in the country. This principle was fully observed and the length of the programmes is appropriate for the size of the ethnic communities. Programmes for ethnic communities are broadcast on MTV2 and MR3. The latter is known as “Channel of the ethnic communities”. The programmes are broadcast in Albanian, Turkish, Serbian, Roma, Vlach and Bosnian.

## 6. CONCLUSIONS

Broadcasting in Macedonia has been undergoing significant changes and development. After the adoption of the Broadcasting Law in 2005, the process of regulatory and organisational restructuring began in earnest.

For the first time, besides the public and the commercial sector, the new legislation defines a third sector in broadcasting, which is the non-profit one. The first broadcast licence was granted to a non-profit broadcaster in July 2007, a student radio station run by the Ss. Cyril and Methodius University. Experts believe that this sector could play an important role in promoting the needs and interests of specific target groups, if the regulator provides continuing support. The Broadcasting Council is willing to grant more licences to non-profit broadcasters, but there have been no applications so far and this sector is for the moment non-existent, facing problems in defining its professional standards, criteria for work, and funding.

MRT has undergone structural and organisational changes. It reduced its services to two TV and four radio channels. In line with the Broadcasting Law, the Broadcasting Council decided that the 29 local public radio stations should be transformed into commercial broadcasters. The task of covering regional and local news has been taken over by MTV.

Commercial broadcasting has been liberalised, but there is still no foreign investment. Even though it is not yet properly regulated, the cable television market is the only

exception: it has seen the first foreign investment, by a party which plans further expansion.

The 2005 Broadcasting Law offers a good basis for the development of broadcasting in Macedonia. Implementation has, however, been slow and patchy. Breaches of the law often go unpunished, and the strong influence of political and business interests is still heavily present.

The public service broadcaster is in the most critical situation. All the reforms carried out thus far, chiefly on the institutional level, have proven fruitless. MRT is financially drained and this seriously affects the station's capacity to fulfil its basic functions. On top of this, continual changes in the station's management and editorial structure, combined with failed attempts to improve the programming, have negatively impacted on the station's transformation.

The main challenges for the commercial sector in the near future will be the quantitative and qualitative redefinition of their programming and digitalisation.

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